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8 Attorney for Plaintiffs  
9 SONY BMG MUSIC ENTERTAINMENT; and  
10 UMG RECORDINGS, INC.

11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14  
15 SAN FRANCISCO DIVISION

16 SONY BMG MUSIC ENTERTAINMENT, a  
17 Delaware general partnership; and UMG  
18 RECORDINGS, INC., a Delaware corporation,,

19 Plaintiff,

20 v.

21 TREVOR SPIETH AKA TREVOR RUNNELS,  
22  
23 Defendant.

Case No. 3:07-cv-04855-SI

**FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. §101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. §1331 (federal  
5 question); and 28 U.S.C. §1338(a) (copyright).

6 3. This Court has personal jurisdiction over the Defendant, Trevor Spieth AKA Trevor  
7 Runnels, and venue in this District is proper under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400,  
8 because, on information and belief, a substantial part of the acts of infringement complained of herein  
9 occurred in this District.

**PARTIES**

10  
11 4. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general partnership,  
12 with its principal place of business in the State of New York.

13 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the  
14 laws of the State of Delaware, with its principal place of business in the State of California.

15 6. Plaintiffs are informed and believe that Defendant is an individual who was within this  
16 District at the time of the infringement complained of herein.

**COUNT I**

**INFRINGEMENT OF COPYRIGHTS**

17  
18 7. Plaintiffs incorporate herein by this reference each and every allegation contained in  
19 each paragraph above.

20 8. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of  
21 exclusive rights under United States copyright law with respect to certain copyrighted sound  
22 recordings, including but not limited to, all of the copyrighted sound recordings on Exhibit A to this  
23 Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted  
24 Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright  
25 Registration issued by the Register of Copyrights, for which the Plaintiffs are the owners as specified  
26 on Exhibit A.  
27  
28

1           9.       Among the exclusive rights granted to each Plaintiff under the Copyright Act are the  
2 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings  
3 to the public.

4           10.      Much of the unlawful distribution of copyrighted sound recordings over the Internet  
5 occurs via “peer-to-peer” (“P2P”) file copying networks or so-called online media distribution  
6 systems. P2P networks, at least in their most popular form, refer to computer systems or processes that  
7 enable Internet users to search for files (including audio recordings) stored on other users’ computers  
8 and transfer exact copies of files from one computer to another via the Internet, which can include both  
9 downloading an exact copy of that file onto the user’s own computer and distributing an exact copy of  
10 that file to other Internet users on the same P2P network. P2P networks enable users who otherwise  
11 would have no connection with, or knowledge of, each other to provide a sophisticated search  
12 mechanism by which users can locate these files for downloading and to reproduce and distribute files  
13 off of their personal computers.

14           11.      Users of P2P networks who distribute files over a network can be identified by using  
15 Internet Protocol (“IP”) addresses because the unique IP address of the computer offering the files for  
16 distribution can be captured by another user during a search or a file transfer. Users of P2P networks  
17 can be identified by their IP addresses because each computer or network device (such as a router) that  
18 connects to a P2P network must have a unique IP address within the Internet to deliver files from one  
19 computer or network device to another. Two computers cannot effectively function if they are  
20 connected to the Internet with the same IP address at the same time.

21           12.      Plaintiffs identified an individual using Ares on the P2P network AresWarez at IP  
22 address 130.212.163.118 on March 10, 2007 at 13:37:59 EST distributing 354 audio files over the  
23 Internet. The Defendant was identified as the individual responsible for that IP address at that date and  
24 time. Plaintiffs are informed and believe that as of March 10, 2007, Defendant, without the permission  
25 or consent of Plaintiffs, had continuously used, and continued to use, a P2P network to download  
26 and/or distribute to the public the Copyrighted Recordings. Exhibit A identifies the date and time of  
27 capture and a list of Copyrighted Recordings that Defendant has, without the permission or consent of  
28 Plaintiffs, downloaded and/or distributed to the public. Through Defendant’s continuous and ongoing

1 acts of downloading and/or distributing to the public the Copyrighted Recordings, which acts Plaintiffs  
2 believe to have been ongoing for some time, Defendant has violated Plaintiffs' exclusive rights of  
3 reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights  
4 and exclusive rights under copyright.

5 13. In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and  
6 believe that Defendant has, without the permission or consent of Plaintiffs, continuously downloaded  
7 and/or distributed to the public additional sound recordings owned by or exclusively licensed to  
8 Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are  
9 ongoing.

10 14. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on each  
11 respective album cover of each of the sound recordings identified in Exhibit A. These notices of  
12 copyright appeared on published copies of each of the sound recordings identified in Exhibit A. These  
13 published copies were widely available, and each of the published copies of the sound recordings  
14 identified in Exhibit A was accessible by Defendant.

15 15. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
16 willful and intentional, in disregard of and indifference to the rights of Plaintiffs.

17 16. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
18 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for  
19 Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to their  
20 attorneys' fees and costs pursuant to 17 U.S.C. § 505.

21 17. The conduct of Defendant is causing and, unless enjoined and restrained by this Court,  
22 will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or  
23 measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and  
24 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing Plaintiffs'  
25 copyrights, and ordering Defendant to destroy all copies of sound recordings made in violation of  
26 Plaintiffs' exclusive rights.

27 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

28 1. For an injunction providing:

1 “Defendant shall be and hereby is enjoined from directly or indirectly  
2 infringing Plaintiffs’ rights under federal or state law in the Copyrighted  
3 Recordings and any sound recording, whether now in existence or later  
4 created, that is owned or controlled by Plaintiffs (or any parent,  
5 subsidiary, or affiliate record label of Plaintiffs) (“Plaintiffs’  
6 Recordings”), including without limitation by using the Internet or any  
7 online media distribution system to reproduce (i.e., download) any of  
8 Plaintiffs’ Recordings, to distribute (i.e., upload) any of Plaintiffs’  
9 Recordings, or to make any of Plaintiffs’ Recordings available for  
10 distribution to the public, except pursuant to a lawful license or with the  
11 express authority of Plaintiffs. Defendant also shall destroy all copies of  
12 Plaintiffs’ Recordings that Defendant has downloaded onto any  
13 computer hard drive or server without Plaintiffs’ authorization and shall  
14 destroy all copies of those downloaded recordings transferred onto any  
15 physical medium or device in Defendant’s possession, custody, or  
16 control.”

17 2. For statutory damages for each infringement of each Copyrighted Recording  
18 pursuant to 17 U.S.C. § 504.

19 3. For Plaintiffs’ costs in this action.

20 4. For Plaintiffs’ reasonable attorneys’ fees incurred herein.

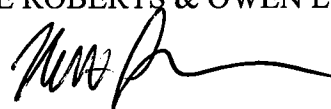
21 5. For such other and further relief as the Court may deem just and proper.

22 Dated:

March 24, 2008

HOLME ROBERTS & OWEN LLP

By



MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

SONY BMG MUSIC ENTERTAINMENT; and  
UMG RECORDINGS, INC.

# **EXHIBIT A**

**EXHIBIT A****TREVOR SPIETH AKA TREVOR RUNNELS****IP Address:** 130.212.163.118 2007-03-10 13:37:59 EST**CASE ID#** 121320271A**P2P Network:** AresWarez**Total Audio Files:** 354

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
SONY BMG MUSIC ENTERTAINMENT	Savage Garden	Santa Monica	Savage Garden	299-097
SONY BMG MUSIC ENTERTAINMENT	The Offspring	Americana	Americana	264-015
SONY BMG MUSIC ENTERTAINMENT	Savage Garden	Affirmation	Affirmation	276-120
UMG Recordings, Inc.	Guns N Roses	Paradise City	Appetite for Destruction	85-358
UMG Recordings, Inc.	Godsmack	Voodoo	Godsmack	241-879
UMG Recordings, Inc.	Nirvana	All Apologies	In Utero	172-276